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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

**MICHAEL ZELNY, an individual,**

Plaintiff,

**v.**

**GAVIN NEWSOM, et al.,**

Defendants.

CV 17-7357 JCS

**DEFENDANT ATTORNEY GENERAL  
XAVIER BECERRA'S ANSWER TO  
PLAINTIFF MICHAEL ZELNY'S  
SECOND AMENDED COMPLAINT**

Judge: The Honorable Richard G.  
Seeborg  
Action Filed: December 28, 2017  
Trial Date: June 8, 2020



7. In response to the allegations contained in paragraph 7 of the Second Amended Complaint, Defendant Becerra admits that Plaintiff Zeleny has asserted claims under 42 U.S.C. § 1983. Defendant Becerra denies that the California statutes Plaintiff Zeleny alleges were invoked or applied against him are unconstitutional. Defendant Becerra denies that Plaintiff Zeleny has asserted any claims pursuant to the California Constitution. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

8. In response to the allegations contained in paragraph 8 of the Second Amended Complaint, Defendant Becerra denies that Plaintiff Zeleny challenges the facial validity of California statutes restricting the public display of unloaded firearms, specifically California Penal Code sections 26400 and 26350. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

### **JURISDICTION AND VENUE**

9. In response to the allegations contained in paragraph 9 of the Second Amended Complaint, Defendant Becerra admits the content of the First, Second, and Fourteenth Amendments to the United States Constitution and the federal Civil Rights Act, 42 U.S.C. §§ 1983 and 1988. Defendant Becerra denies that Plaintiff Zeleny is entitled to any relief under the First, Second, and Fourteenth Amendments to the United States Constitution or the federal Civil Rights Act, 42 U.S.C. §§ 1983 and 1988.

10. In response to the allegations contained in paragraph 10 of the Second Amended Complaint, Defendant Becerra admits the content of 28 U.S.C. §§ 1331 and 1343.

11. In response to the allegations contained in paragraph 11 of the Second Amended Complaint, Defendant Becerra admits the content of 28 U.S.C. §§ 2201 and 2202. Defendant Becerra denies Plaintiff Zeleny is entitled to the requested declaratory judgment.

12. In response to the allegations contained in paragraph 12 of the Second Amended Complaint, Defendant Becerra admits the content of 42 U.S.C. § 1983 and Rule 65 of the Federal

1 Rules of Civil Procedure. Defendant Becerra denies Plaintiff Zeleny is entitled to the requested  
2 injunctive relief.

3 13. In response to the allegations contained in paragraph 13 of the Second Amended  
4 Complaint, Defendant Becerra admits the content of 42 U.S.C. § 1988. Defendant Becerra denies  
5 Plaintiff Zeleny is entitled to an award of attorney's fees and/or costs.

6 14. In response to the allegations contained in paragraph 14 of the Second Amended  
7 Complaint, Defendant Becerra admits the content of 28 U.S.C. § 1367(a) and California Code of  
8 Civil Procedure section 1021.5. Defendant Becerra denies Plaintiff Zeleny has asserted any legal  
9 claims under the California Constitution. Defendant Becerra also denies that Plaintiff Zeleny is  
10 entitled to an award of attorney's fees and/or costs.

11 15. In response to the allegations contained in paragraph 15 of the Second Amended  
12 Complaint, Defendant Becerra denies committing any unlawful acts. Indeed, the Second  
13 Amended Complaint lacks any allegations demonstrating any unlawful acts by Defendant  
14 Becerra. As to the remaining allegations, Defendant Becerra lacks knowledge or information  
15 sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations  
16 therein.

17 16. In response to the allegations contained in paragraph 16 of the Second Amended  
18 Complaint, Defendant Becerra admits the content of 28 U.S.C. § 1391(b). Defendant Becerra  
19 denies engaging in any acts which would give rise to Plaintiff Zeleny's action. As to the  
20 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
21 belief as to the truth of the allegations and, therefore, denies the allegations therein.

## 22 **THE PARTIES**

23 17. The allegations contained in paragraph 17 are Plaintiff's characterization of his case,  
24 to which no answer is required. To the extent they may be deemed allegations of fact, Defendant  
25 Becerra lacks knowledge or information sufficient to form a belief as to the truth of the  
26 allegations and, therefore, denies the allegations therein.

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18. In response to the allegations contained in paragraph 18 of the Second Amended Complaint, Defendant Becerra admits he is the Attorney General of the State of California. Defendant Becerra admits that he is a resident of California, and a citizen of the United States.

19. In response to the allegations contained in paragraph 19 of the Second Amended Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

20. In response to the allegations contained in paragraph 20 of the Second Amended Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

21. In response to the allegations contained in paragraph 21 of the Second Amended Complaint, Defendant Becerra denies that he engaged in any of the unlawful acts and omissions alleged in the Second Amended Complaint. Indeed, the Second Amended Complaint lacks any allegations demonstrating any unlawful acts by Defendant Becerra. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

22. In response to the allegations contained in paragraph 22 of the Second Amended Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

23. In response to the allegations contained in paragraph 23 of the Second Amended Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

## FACTS

24. In response to the allegations contained in paragraph 24 of the Second Amended Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

25. In response to the allegations contained in paragraph 25 of the Second Amended Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

1           26. In response to the allegations contained in paragraph 26 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           27. In response to the allegations contained in paragraph 27 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           28. In response to the allegations contained in paragraph 28 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10          29. In response to the allegations contained in paragraph 29 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13          30. In response to the allegations contained in paragraph 30 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16          31. In response to the allegations contained in paragraph 31 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19          32. In response to the allegations contained in paragraph 32 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22          33. In response to the allegations contained in paragraph 33 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25          34. In response to the allegations contained in paragraph 34 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           35. In response to the allegations contained in paragraph 35 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           36. In response to the allegations contained in paragraph 36 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           37. In response to the allegations contained in paragraph 37 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10          38. In response to the allegations contained in paragraph 38 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13          39. In response to the allegations contained in paragraph 39 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16          40. In response to the allegations contained in paragraph 40 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19          41. In response to the allegations contained in paragraph 41 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22          42. In response to the allegations contained in paragraph 42 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25          43. In response to the allegations contained in paragraph 43 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           44. In response to the allegations contained in paragraph 44 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           45. In response to the allegations contained in paragraph 45 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           46. In response to the allegations contained in paragraph 46 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10          47. In response to the allegations contained in paragraph 47 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13          48. In response to the allegations contained in paragraph 48 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16          49. In response to the allegations contained in paragraph 49 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19          50. In response to the allegations contained in paragraph 50 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22          51. In response to the allegations contained in paragraph 51 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25          52. In response to the allegations contained in paragraph 52 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           53. In response to the allegations contained in paragraph 53 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           54. In response to the allegations contained in paragraph 54 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           55. In response to the allegations contained in paragraph 55 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10          56. In response to the allegations contained in paragraph 56 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13          57. In response to the allegations contained in paragraph 57 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16          58. In response to the allegations contained in paragraph 58 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19          59. In response to the allegations contained in paragraph 59 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22          60. In response to the allegations contained in paragraph 60 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25          61. In response to the allegations contained in paragraph 61 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           62. In response to the allegations contained in paragraph 62 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           63. In response to the allegations contained in paragraph 63 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           64. In response to the allegations contained in paragraph 64 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10           65. In response to the allegations contained in paragraph 65 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13           66. In response to the allegations contained in paragraph 66 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16           67. In response to the allegations contained in paragraph 67 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19           68. In response to the allegations contained in paragraph 68 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22           69. In response to the allegations contained in paragraph 69 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25           70. In response to the allegations contained in paragraph 70 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           71. In response to the allegations contained in paragraph 71 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           72. In response to the allegations contained in paragraph 72 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           73. In response to the allegations contained in paragraph 73 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10          74. In response to the allegations contained in paragraph 74 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13          75. In response to the allegations contained in paragraph 75 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16          76. In response to the allegations contained in paragraph 76 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19          77. In response to the allegations contained in paragraph 77 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22          78. In response to the allegations contained in paragraph 78 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25          79. In response to the allegations contained in paragraph 79 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           80. In response to the allegations contained in paragraph 80 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           81. In response to the allegations contained in paragraph 81 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           82. In response to the allegations contained in paragraph 82 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10          83. In response to the allegations contained in paragraph 83 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13          84. In response to the allegations contained in paragraph 84 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16          85. In response to the allegations contained in paragraph 85 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19          86. In response to the allegations contained in paragraph 86 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22          87. In response to the allegations contained in paragraph 87 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25          88. In response to the allegations contained in paragraph 88 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           89. In response to the allegations contained in paragraph 89 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           90. In response to the allegations contained in paragraph 90 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           91. In response to the allegations contained in paragraph 91 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10          92. In response to the allegations contained in paragraph 92 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13          93. In response to the allegations contained in paragraph 93 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16          94. In response to the allegations contained in paragraph 94 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19          95. In response to the allegations contained in paragraph 95 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22          96. In response to the allegations contained in paragraph 96 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25          97. In response to the allegations contained in paragraph 97 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           98. The allegations contained in paragraph 98 of the Second Amended Complaint consist  
2 of legal argument and/or conclusions, which do not require admission or denial. To the extent  
3 they may be deemed allegations of fact, Defendant Becerra lacks knowledge or information  
4 sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations  
5 therein.

6           99. In response to the allegations contained in paragraph 99 of the Second Amended  
7 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
8 truth of the allegations and, therefore, denies the allegations therein.

9           100. In response to the allegations contained in paragraph 100 of the Second Amended  
10 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
11 truth of the allegations and, therefore, denies the allegations therein.

12           101. In response to the allegations contained in paragraph 101 of the Second Amended  
13 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
14 truth of the allegations and, therefore, denies the allegations therein.

15           102. In response to the allegations contained in paragraph 102 of the Second Amended  
16 Complaint, Defendant Becerra admits that California Penal Code §§ 26350 and 26405 generally  
17 prohibit persons from openly carrying unloaded firearms, subject to some exceptions. As to the  
18 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
19 belief as to the truth of the allegations and, therefore, denies the allegations therein.

20           103. In response to the allegations contained in paragraph 103 of the Second Amended  
21 Complaint, Defendant Becerra admits that California Penal Code §§ 26350 and 26405 generally  
22 prohibit persons from openly carrying unloaded firearms, subject to some exceptions. As to the  
23 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
24 belief as to the truth of the allegations and, therefore, denies the allegations therein.

25           104. In response to the allegations contained in paragraph 104 of the Second Amended  
26 Complaint, Defendant Becerra admits that California Penal Code § 26350 generally prohibits  
27 persons from openly carrying unloaded firearms, subject to some exceptions. As to the remaining  
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1 allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to  
2 the truth of the allegations and, therefore, denies the allegations therein.

3 105. In response to the allegations contained in paragraph 105 of the Second Amended  
4 Complaint, Defendant Becerra admits the content of California Penal Code § 26375. As to the  
5 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
6 belief as to the truth of the allegations and, therefore, denies the allegations therein.

7 106. In response to the allegations contained in paragraph 106 of the Second Amended  
8 Complaint, Defendant Becerra admits the content of California Penal Code § 26400. As to the  
9 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
10 belief as to the truth of the allegations and, therefore, denies the allegations therein.

11 107. In response to the allegations contained in paragraph 107 of the Second Amended  
12 Complaint, Defendant Becerra admits the content of California Penal Code § 26405(r). As to the  
13 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
14 belief as to the truth of the allegations and, therefore, denies the allegations therein.

15 108. In response to the allegations contained in paragraph 108 of the Second Amended  
16 Complaint, Defendant Becerra admits the content of California Penal Code § 25510. As to the  
17 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
18 belief as to the truth of the allegations and, therefore, denies the allegations therein.

19 109. In response to the allegations contained in paragraph 109 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22 110. In response to the allegations contained in paragraph 110 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25 111. The allegations contained in paragraph 111 of the Second Amended Complaint  
26 consist of legal argument and/or conclusions, which do not require admission or denial. To the  
27 extent they may be deemed allegations of fact, Defendant Becerra lacks knowledge or  
28

1 information sufficient to form a belief as to the truth of the allegations and, therefore, denies the  
2 allegations therein.

3 112. The allegations contained in paragraph 112 of the Second Amended Complaint  
4 consist of legal argument and/or conclusions, which do not require admission or denial. To the  
5 extent they may be deemed allegations of fact, Defendant Becerra lacks knowledge or  
6 information sufficient to form a belief as to the truth of the allegations and, therefore, denies the  
7 allegations therein.

8 113. The allegations contained in paragraph 113 of the Second Amended Complaint  
9 consist of legal argument and/or conclusions, which do not require admission or denial. To the  
10 extent they may be deemed allegations of fact, Defendant Becerra lacks knowledge or  
11 information sufficient to form a belief as to the truth of the allegations and, therefore, denies the  
12 allegations therein.

13 114. The allegations contained in paragraph 114 of the Second Amended Complaint  
14 consist of legal argument and/or conclusions, which do not require admission or denial. To the  
15 extent they may be deemed allegations of fact, Defendant Becerra lacks knowledge or  
16 information sufficient to form a belief as to the truth of the allegations and, therefore, denies the  
17 allegations therein.

18 115. The allegations contained in paragraph 115 of the Second Amended Complaint  
19 consist of legal argument and/or conclusions, which do not require admission or denial. To the  
20 extent they may be deemed allegations of fact, Defendant Becerra lacks knowledge or  
21 information sufficient to form a belief as to the truth of the allegations and, therefore, denies the  
22 allegations therein.

23 116. In response to the allegations contained in paragraph 116 of the Second Amended  
24 Complaint, Defendant Becerra denies suppressing or threatening to suppress Plaintiff Zeleny's  
25 lawful exercise of his Constitutional rights. As to the remaining allegations, Defendant Becerra  
26 lacks knowledge or information sufficient to form a belief as to the truth of the allegations and,  
27 therefore, denies the allegations therein.

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1           117. The allegations contained in paragraph 117 of the Second Amended Complaint  
2 consist of legal argument and/or conclusions, which do not require admission or denial. To the  
3 extent they may be deemed allegations of fact, Defendant Becerra lacks knowledge or  
4 information sufficient to form a belief as to the truth of the allegations and, therefore, denies the  
5 allegations therein.

6           118. In response to the allegations contained in paragraph 118 of the Second Amended  
7 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
8 truth of the allegations and, therefore, denies the allegations therein.

9           119. In response to the allegations contained in paragraph 119 of the Second Amended  
10 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
11 truth of the allegations and, therefore, denies the allegations therein.

12           120. In response to the allegations contained in paragraph 120 of the Second Amended  
13 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
14 truth of the allegations and, therefore, denies the allegations therein.

15           121. In response to the allegations contained in paragraph 121 of the Second Amended  
16 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
17 truth of the allegations and, therefore, denies the allegations therein.

18           122. In response to the allegations contained in paragraph 122 of the Second Amended  
19 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
20 truth of the allegations and, therefore, denies the allegations therein.

21           123. In response to the allegations contained in paragraph 123 of the Second Amended  
22 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
23 truth of the allegations and, therefore, denies the allegations therein.

24           124. In response to the allegations contained in paragraph 124 of the Second Amended  
25 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
26 truth of the allegations and, therefore, denies the allegations therein.

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1           125. In response to the allegations contained in paragraph 125 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           126. In response to the allegations contained in paragraph 126 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           127. In response to the allegations contained in paragraph 127 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10           128. In response to the allegations contained in paragraph 128 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13           129. In response to the allegations contained in paragraph 129 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16           130. In response to the allegations contained in paragraph 130 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19           131. In response to the allegations contained in paragraph 131 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22           132. In response to the allegations contained in paragraph 132 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25           133. In response to the allegations contained in paragraph 133 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           134. In response to the allegations contained in paragraph 134 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           135. In response to the allegations contained in paragraph 135 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           136. In response to the allegations contained in paragraph 136 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10           137. In response to the allegations contained in paragraph 137 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13           138. In response to the allegations contained in paragraph 138 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16           139. In response to the allegations contained in paragraph 139 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19           140. In response to the allegations contained in paragraph 140 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22           141. In response to the allegations contained in paragraph 141 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25           142. In response to the allegations contained in paragraph 142 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           143. In response to the allegations contained in paragraph 143 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           144. In response to the allegations contained in paragraph 144 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           145. In response to the allegations contained in paragraph 145 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10           146. In response to the allegations contained in paragraph 146 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13           147. In response to the allegations contained in paragraph 147 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16           148. In response to the allegations contained in paragraph 148 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19           149. In response to the allegations contained in paragraph 149 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22           150. In response to the allegations contained in paragraph 150 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25           151. In response to the allegations contained in paragraph 151 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           152. In response to the allegations contained in paragraph 152 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           153. In response to the allegations contained in paragraph 153 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           154. In response to the allegations contained in paragraph 154 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10           155. In response to the allegations contained in paragraph 155 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13           156. In response to the allegations contained in paragraph 156 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16           157. In response to the allegations contained in paragraph 157 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19           158. In response to the allegations contained in paragraph 158 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22           159. In response to the allegations contained in paragraph 159 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25           160. In response to the allegations contained in paragraph 160 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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1           161. In response to the allegations contained in paragraph 161 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           162. In response to the allegations contained in paragraph 162 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           163. In response to the allegations contained in paragraph 163 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10           164. In response to the allegations contained in paragraph 164 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13           165. In response to the allegations contained in paragraph 165 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16           166. In response to the allegations contained in paragraph 166 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19           167. The allegations contained in paragraph 167 are Plaintiff Zeleny's characterization of  
20 his case, to which no answer is required. To the extent they may be deemed allegations of fact,  
21 Defendant Becerra admits that Defendant Bertini contacted the California Department of Justice  
22 regarding the Entertainment Firearms Permit issued by the California Department of Justice to  
23 Plaintiff Zeleny in 2016. An Entertainment Firearms Permit certifies that the California  
24 Department of Justice has completed a firearms eligibility check and, as of the date of issuance,  
25 there is nothing that would prohibit the named permitholder from the possession of firearms  
26 loaned to the permittee for use in a motion picture, television, video, theatrical, or other  
27 entertainment production pursuant to California Penal Code §§ 29500 through 29530. As to the  
28

1 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations and, therefore, denies the allegations therein.

3 168. In response to the allegations contained in paragraph 168 of the Second Amended  
4 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
5 truth of the allegations and, therefore, denies the allegations therein.

6 169. In response to the allegations contained in paragraph 169 of the Second Amended  
7 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
8 truth of the allegations and, therefore, denies the allegations therein.

9 170. In response to the allegations contained in paragraph 170 of the Second Amended  
10 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
11 truth of the allegations and, therefore, denies the allegations therein.

12 171. The allegations contained in paragraph 171 of the Second Amended Complaint are  
13 Plaintiff Zeleny's characterization of his case, to which no answer is required. To the extent they  
14 may be deemed allegations of fact, Defendant Becerra admits that Defendant Bertini contacted  
15 the California Department of Justice regarding the Entertainment Firearms Permit issued by the  
16 California Department of Justice to Plaintiff Zeleny in 2016. As to the remaining allegations,  
17 Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the  
18 allegations and, therefore, denies the allegations therein.

19 172. The allegations contained in paragraph 172 of the Second Amended Complaint are  
20 Plaintiff Zeleny's characterization of his case, to which no answer is required. To the extent they  
21 may be deemed allegations of fact, Defendant Becerra admits that Defendant Bertini contacted  
22 the California Department of Justice regarding the Entertainment Firearms Permit issued by the  
23 California Department of Justice to Plaintiff Zeleny in 2016. As to the remaining allegations,  
24 Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the  
25 allegations and, therefore, denies the allegations therein.

26 173. In response to the allegations contained in paragraph 173 of the Second Amended  
27 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
28 truth of the allegations and, therefore, denies the allegations therein.

1           174. In response to the allegations contained in paragraph 174 of the Second Amended  
2 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
3 truth of the allegations and, therefore, denies the allegations therein.

4           175. In response to the allegations contained in paragraph 175 of the Second Amended  
5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
6 truth of the allegations and, therefore, denies the allegations therein.

7           176. In response to the allegations contained in paragraph 176 of the Second Amended  
8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
9 truth of the allegations and, therefore, denies the allegations therein.

10           177. In response to the allegations contained in paragraph 177 of the Second Amended  
11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
12 truth of the allegations and, therefore, denies the allegations therein.

13           178. In response to the allegations contained in paragraph 178 of the Second Amended  
14 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
15 truth of the allegations and, therefore, denies the allegations therein.

16           179. In response to the allegations contained in paragraph 179 of the Second Amended  
17 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
18 truth of the allegations and, therefore, denies the allegations therein.

19           180. In response to the allegations contained in paragraph 180 of the Second Amended  
20 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
21 truth of the allegations and, therefore, denies the allegations therein.

22           181. In response to the allegations contained in paragraph 181 of the Second Amended  
23 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
24 truth of the allegations and, therefore, denies the allegations therein.

25           182. In response to the allegations contained in paragraph 182 of the Second Amended  
26 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
27 truth of the allegations and, therefore, denies the allegations therein.

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183. In response to the allegations contained in paragraph 183 of the Second Amended Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

184. In response to the allegations contained in paragraph 184 of the Second Amended Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

185. In response to the allegations contained in paragraph 185 of the Second Amended Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

186. In response to the allegations contained in paragraph 186 of the Second Amended Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

**DECLARATORY RELIEF**

187. In response to the allegations contained in paragraph 187 of the Second Amended Complaint, Defendant Becerra denies that an actual, substantial, justiciable, and continuing controversy exists between Plaintiff Zeleny and himself. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

188. The allegations contained in paragraph 188 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. To the extent they may be deemed allegations of fact, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

189. The allegations contained in paragraph 189 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. To the extent they may be deemed allegations of fact, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

190. The allegations contained in paragraph 190 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. To the extent they may be deemed allegations of fact, Defendant Becerra admits the content of California Penal Code §§ 26350 and 26400, but denies that those statutes are unconstitutional. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

191. The allegations contained in paragraph 191 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. To the extent they may be deemed allegations of fact, Defendant Becerra admits the content of California Penal Code §§ 25510, 26375, and 26405. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

192. The allegations contained in paragraph 192 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. To the extent they may be deemed allegations of fact, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

193. The allegations contained in paragraph 193 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. To the extent they may be deemed allegations of fact, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

## FIRST COUNT

194. In response to the allegations contained in paragraph 194 of the Second Amended Complaint, Defendant Becerra repeats his responses to the allegations contained in paragraphs 1-193 as though set forth fully herein.

195. In response to the allegations contained in paragraph 195 of the Second Amended Complaint, Defendant Becerra admits the content of the First Amendment to the United States

1 Constitution and the Due Process Clause of the Fourteenth Amendment to the United States  
 2 Constitution. Defendant Becerra contends that the remainder of the paragraph consists of legal  
 3 argument and/or conclusions, which do not require admission or denial.

4 196. In response to the allegations contained in paragraph 196 of the Second Amended  
 5 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
 6 truth of the allegations and, therefore, denies the allegations therein.

7 197. In response to the allegations contained in paragraph 197 of the Second Amended  
 8 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
 9 truth of the allegations and, therefore, denies the allegations therein.

10 198. In response to the allegations contained in paragraph 198 of the Second Amended  
 11 Complaint, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the  
 12 truth of the allegations and, therefore, denies the allegations therein.

13 199. The allegations contained in paragraph 199 of the Second Amended Complaint  
 14 consist of legal argument and/or conclusions, which do not require admission or denial. To the  
 15 extent they may be deemed allegations of fact, Defendant Becerra denies engaging in any  
 16 unlawful acts as alleged in paragraph 199. Indeed, the Second Amended Complaint lacks any  
 17 allegations demonstrating any unlawful acts by Defendant Becerra. As to the remaining  
 18 allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to  
 19 the truth of the allegations and, therefore, denies the allegations therein.

## 20 **SECOND COUNT**

21 200. In response to the allegations contained in paragraph 200 of the Second Amended  
 22 Complaint, Defendant Becerra repeats his responses to the allegations contained in paragraphs 1-  
 23 199 as though set forth fully herein.

24 201. In response to the allegations contained in paragraph 201 of the Second Amended  
 25 Complaint, Defendant Becerra admits the content of the First Amendment to the United States  
 26 Constitution and the Due Process Clause of the Fourteenth Amendment to the United States  
 27 Constitution. Defendant Becerra contends that the remainder of the paragraph consists of legal  
 28 argument and/or conclusions, which do not require admission or denial.

202. The allegations contained in paragraph 202 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

203. The allegations contained in paragraph 203 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

204. The allegations contained in paragraph 204 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

205. The allegations contained in paragraph 205 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

206. The allegations contained in paragraph 206 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. To the extent they may be deemed allegations of fact, Defendant Becerra denies engaging in any unlawful acts as alleged in paragraph 206. Indeed, the Second Amended Complaint lacks any allegations demonstrating any unlawful acts by Defendant Becerra. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

### **THIRD COUNT**

207. In response to the allegations contained in paragraph 207 of the Second Amended Complaint, Defendant Becerra repeats his responses to the allegations contained in paragraphs 1-206 as though set forth fully herein.

/ / /

1       208. In response to the allegations contained in paragraph 208 of the Second Amended  
2 Complaint, Defendant Becerra admits the content of the First and Second Amendments to the  
3 United States Constitution and the Due Process Clause of the Fourteenth Amendment to the  
4 United States Constitution. Defendant Becerra contends that the remainder of the paragraph  
5 consists of legal argument and/or conclusions, which do not require admission or denial.

6       209. The allegations contained in paragraph 209 of the Second Amended Complaint  
7 consist of legal argument and/or conclusions, which do not require admission or denial. As to the  
8 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
9 belief as to the truth of the allegations and, therefore, denies the allegations therein.

10       210. The allegations contained in paragraph 210 of the Second Amended Complaint  
11 consist of legal argument and/or conclusions, which do not require admission or denial.  
12 Defendant Becerra denies that Plaintiff Zeleny has asserted a facial challenge to California Penal  
13 Code §§ 25510, 26375, or 26405. As to the remaining allegations, Defendant Becerra lacks  
14 knowledge or information sufficient to form a belief as to the truth of the allegations and,  
15 therefore, denies the allegations therein.

16       211. The allegations contained in paragraph 211 of the Second Amended Complaint  
17 consist of legal argument and/or conclusions, which do not require admission or denial. As to the  
18 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
19 belief as to the truth of the allegations and, therefore, denies the allegations therein.

20       212. The allegations contained in paragraph 212 of the Second Amended Complaint  
21 consist of legal argument and/or conclusions, which do not require admission or denial. As to the  
22 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
23 belief as to the truth of the allegations and, therefore, denies the allegations therein.

24       213. The allegations contained in paragraph 213 of the Second Amended Complaint  
25 consist of legal argument and/or conclusions, which do not require admission or denial. As to the  
26 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
27 belief as to the truth of the allegations and, therefore, denies the allegations therein.

28   / / /

214. The allegations contained in paragraph 214 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

215. The allegations contained in paragraph 215 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

216. The allegations contained in paragraph 216 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

217. The allegations contained in paragraph 217 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. To the extent they may be deemed allegations of fact, Defendant Becerra denies engaging in any unlawful acts as alleged in paragraph 217. Indeed, the Second Amended Complaint lacks any allegations demonstrating any unlawful acts by Defendant Becerra. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

**FOURTH COUNT**

218. In response to the allegations contained in paragraph 218 of the Second Amended Complaint, Defendant Becerra repeats his responses to the allegations contained in paragraphs 1-217 as though set forth fully herein.

219. The allegations contained in paragraph 219 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

/ / /

220. The allegations contained in paragraph 220 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

221. The allegations contained in paragraph 221 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

222. The allegations contained in paragraph 222 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

223. The allegations contained in paragraph 223 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. Defendant Becerra denies engaging in any unlawful acts as alleged in paragraph 223. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

224. The allegations contained in paragraph 224 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. Defendant Becerra denies engaging in any unlawful acts as alleged in paragraph 224. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

**FIFTH COUNT**

225. In response to the allegations contained in paragraph 225 of the Second Amended Complaint, Defendant Becerra repeats his responses to the allegations contained in paragraphs 1-224 as though set forth fully herein.

226. The allegations contained in paragraph 226 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the

1 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
2 belief as to the truth of the allegations and, therefore, denies the allegations therein.

3 227. The allegations contained in paragraph 227 of the Second Amended Complaint  
4 consist of legal argument and/or conclusions, which do not require admission or denial. As to the  
5 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
6 belief as to the truth of the allegations and, therefore, denies the allegations therein.

7 228. The allegations contained in paragraph 228 of the Second Amended Complaint  
8 consist of legal argument and/or conclusions, which do not require admission or denial.  
9 Defendant Becerra denies that Plaintiff Zeleny has asserted a claim under the California  
10 Constitution. As to the remaining allegations, Defendant Becerra lacks knowledge or information  
11 sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations  
12 therein.

13 229. In response to the allegations contained in paragraph 229 of the Second Amended  
14 Complaint, Defendant Becerra denies promulgating policies and/or procedures, conducted under  
15 color of state law, that deprived Plaintiff Zeleny of rights secured by the Equal Protection Clause  
16 of the Fourteenth Amendment to the United States Constitution. The remainder of the paragraph  
17 consists of legal argument and/or conclusions, which do not require admission or denial. To the  
18 extent admission or denial is required, Defendant Becerra lacks knowledge or information  
19 sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations  
20 therein.

### 21 **SIXTH COUNT**

22 230. In response to the allegations contained in paragraph 230 of the Second Amended  
23 Complaint, Defendant Becerra repeats his responses to the allegations contained in paragraphs 1-  
24 229 as though set forth fully herein.

25 231. The allegations contained in paragraph 231 of the Second Amended Complaint  
26 consist of legal argument and/or conclusions, which do not require admission or denial. As to the  
27 remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a  
28 belief as to the truth of the allegations and, therefore, denies the allegations therein.



232. The allegations contained in paragraph 232 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

233. The allegations contained in paragraph 233 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

234. The allegations contained in paragraph 234 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

235. The allegations contained in paragraph 235 of the Second Amended Complaint consist of legal argument and/or conclusions, which do not require admission or denial. As to the remaining allegations, Defendant Becerra lacks knowledge or information sufficient to form a belief as to the truth of the allegations and, therefore, denies the allegations therein.

### **PRAYER FOR RELIEF**

A. Defendant Becerra denies that Plaintiff Zeleny is entitled to a declaratory judgment, “pursuant to 28 U.S.C. § 2201, binding on all Defendants, that California Penal Code §§ 26400 and 26350 are unconstitutional.”

B. Defendant Becerra denies that Plaintiff Zeleny is entitled to a declaratory judgment, “pursuant to 28 U.S.C. § 2201, binding on all Defendants, that California Penal Code §§ 25510, 26375, and 26405 do not require municipal approval of ‘authorized participants’ in an entertainment event or film or video production, and that Zeleny is legally permitted to carry unloaded firearms in connection with his entertainment events and/or his film or video productions, without the need for City approval, subject to compliance with other applicable laws.”

/ / /

1 C. Defendant Becerra denies that Plaintiff Zeleny is entitled to a declaratory judgment,  
2 “pursuant to 28 U.S.C. § 2201, binding on all Defendants, that Zeleny’s peaceful carrying of  
3 unloaded firearms in the course of his speech on matters of public concern or matters of political,  
4 social, or other concerns to the community or issues of significant importance to the public as a  
5 whole, is constitutionally protected; in the alternative, enter a declaratory judgment, pursuant to  
6 28 U.S.C. § 2201, binding on all Defendants, that Zeleny’s peaceful carrying of unloaded  
7 firearms in the course of his entertainment events and/or his film or video productions, is  
8 constitutionally protected.”

9 D. Defendant Becerra denies that Plaintiff Zeleny is entitled to a declaratory judgment,  
10 “pursuant to 28 U.S.C. § 2201, binding on the City and Bertini, that Zeleny’s speech activity  
11 concerning the child rape cover-up by the Zhus and their associates is constitutionally protected  
12 and not obscene or ‘obscene as to minors’ within the meaning of the California Penal Code, and  
13 that their public display would not violate Penal Code §§ 311.2, 313.1(a), and 313.4, in virtue of  
14 its serious literary, artistic, political, and social value.”

15 E. Defendant Becerra denies that Plaintiff Zeleny is entitled to a declaratory judgment,  
16 “pursuant to 28 U.S.C. § 2201, that the City of Menlo Park’s Special Event Permit requirement is  
17 unconstitutional on its face, or in the alternative, as applied to Zeleny’s protests.”

18 F. Defendant Becerra denies that Plaintiff Zeleny is entitled to an injunction, “against  
19 Defendants prohibiting them from enforcing Penal Code §§ 26400 and 26350 against Zeleny in  
20 connection with his peaceful protests, from enforcing the City of Menlo Park’s Special Event  
21 Permit requirement, and from refusing to grant Zeleny required permits based on the content of  
22 his speech activity.”

23 G. Defendant Becerra denies that Plaintiff Zeleny is entitled to a declaratory judgment,  
24 “pursuant to 28 U.S.C. § 2201, construing California Penal Code §§ 25510, 26405, and 26375  
25 and enter a declaratory judgment stating that these sections exempt from sanctions under  
26 California Penal Code §§ 25400, 26400, and 26350 for the carrying of an unloaded handgun and  
27 of an unloaded firearm that is not a handgun, *any individual* who acts and/or holds himself out as  
28 an authorized participant in, or serves as an authorized employee or agent of a supplier of

1 firearms for, a motion picture, television or video production, or entertainment event, when the  
 2 participant lawfully uses that firearm as part of that production or event, as part of rehearsing or  
 3 practicing for participation in that production or event, or while the participant or authorized  
 4 employee or agent is at that production or event, or rehearsal or practice for that production or  
 5 event. Relevant actions and representations include, without limitation, displaying ornamental  
 6 signs or multimedia artworks; reciting slogans, speeches, or poetry; playing trumpets, accordions,  
 7 bagpipes, or other musical instruments; and/or wearing conspicuous costumes, makeup, wigs,  
 8 clown noses, or other decorative prostheses.”

9 H. Defendant Becerra denies that Plaintiff Zeleny is entitled to an award of nominal  
 10 damages against Defendant NEA and punitive damages in an amount to be proven at trial.

11 I. Defendant Becerra denies that Plaintiff Zeleny is entitled to an award of attorneys  
 12 fees pursuant to 42 U.S.C. § 1988 and California Code of Civil Procedure § 1021.5, and costs as  
 13 provided by law.

14 J. Defendant Becerra denies that Plaintiff Zeleny is entitled to an award of any such  
 15 other and further relief as the Court deems just and proper.

## 16 **DEFENSES**

### 17 **FIRST DEFENSE**

18 Plaintiff Zeleny fails to state a claim for relief against Defendant Becerra.

### 19 **SECOND DEFENSE**

20 Plaintiff Zeleny’s alleged violation of the Fourteenth Amendment to the United States  
 21 Constitution (Second Amended Complaint, ¶¶ 225-229) fails because no case or controversy  
 22 exists between Plaintiff Zeleny and Defendant Becerra.

### 23 **THIRD DEFENSE**

24 Plaintiff Zeleny’s alleged violation of the Fourteenth Amendment to the United States  
 25 Constitution (Second Amended Complaint, ¶¶ 225-229) is barred by the Eleventh Amendment.

### 26 **FOURTH DEFENSE**

27 To the extent that Plaintiff Zeleny alleges a violation of the California Constitution (Second  
 28 Amended Complaint, ¶¶ 225-229), such claim is barred because a federal court may not grant

relief against a state official on the basis of state law. *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89 (1984).

### **FIFTH DEFENSE**

Defendant Becerra has insufficient knowledge on which to form a belief as to whether he may have additional, as yet unstated, defenses available. Defendant Becerra reserves the right to assert additional defenses in the event that discovery indicates such additional defenses are proper.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Defendant Becerra prays for judgment as follows:

1. Plaintiff Zeleny take nothing from Defendant Becerra by way of this action;
2. Plaintiff Zeleny's Second Amended Complaint be dismissed with prejudice, and judgment entered in favor of Defendant Becerra;
3. Defendant Becerra be awarded costs of suit, and any other relief which the Court deems proper.

Dated: September 10, 2019

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
ANTHONY R. HAKL  
Supervising Deputy Attorney General

/s/ Noreen P. Skelly  
NOREEN P. SKELLY  
Deputy Attorney General  
*Attorneys for Defendant Attorney General  
Xavier Becerra*

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## CERTIFICATE OF SERVICE

Case Name: **Zeleny, Michael v. Edmund G. Brown, et al.** No. **3:17-cv-07357 RS (NC)**

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I hereby certify that on September 10, 2019, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**DEFENDANT ATTORNEY GENERAL XAVIER BECERRA'S ANSWER TO  
PLAINTIFF MICHAEL ZELENY'S SECOND AMENDED COMPLAINT**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 10, 2019, at Sacramento, California.

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Eileen A. Ennis  
Declarant

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*/s/ Eileen A. Ennis*  
Signature